IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.56 of 2006
IN
WRIT PETITION NO.3940 OF 1991

1. State of Maharashtra and ors .. Applicants.

Vs

1. Shri Abdul Aziz Mohd Ibrahim Muckba and ors. .. Respondents.

Mr A.A.Kumbhakoni, Associate Advocate General with
Mr S.R.Nargolkar, AGP for the applicants.
Mr Vinod Solanki, for respondent nos 1 and 2.

CORAM : B.H.MARLAPALLE & D.B.BHOSALE,JJ.
DATE : APRIL 03, 2006.

PC:

1. Heard.

2. This civil application has been filed for bringing on record the legal representatives of respondent no.2. It is contended that the legal representatives of respondent no.1 are the legal representatives of respondent no.2 as well. The affidavit-in-reply has been filed by one of the legal representatives, namely Mohd Hasan, contending that this application is highly belated and it is further stated that the civil application under stamp number 15024 of 1998 was presented before this Court on 29.4.1998 from which it was pointed out that respondent no.2 was no more. The said civil application was withdrawn subsequently by the petitioner, i.e. State Government. On the other hand, the learned AGP in support

of this application, states that the civil application bearing stamp no. 37075 of 2003 was sought to be served on the respondents and they came to know that respondent nos 1 and 2 were no more.

3. As the petition has been admitted on 16.10.1991 and if there is a delay in getting appropriate steps to bring the legal representatives on record by the State, we cannot allow this petition to be dismissed in default against some petitioners due to laxity on the part of the Government officers. We have also noted from record that the intimation under Order 22, Rule 10A of the Code of Civil Procedure, 1908 was not given to the Registrar of this Court in toto inasmuch as the names of the legal representatives were not mentioned. In the order of this Court passed on 15.10.2003 it was also noted that a large area of forest land is the subject matter of this petition and it could not be allowed to be lost. Having considered the totality of the obtaining circumstances, we are satisfied to condone the delay and hence the delay is condoned and the application is allowed in terms of prayer clauses (a) and (b).

(D.B.BHOSALE, J.) **(B.H.MARLAPALLE,J.)**